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City and Town

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New Local Officials Directory Available Online

by David L. Davies

As part of its strategy to communicate with local officials by e-mail, the Division of Local Services (DLS) has posted a new application on its website that enables city and town clerks to verify and update the names, addresses and other contact information of officials in their communities. (To link to the directory, click on <https://wfb.dor.state.ma.us/dlslod/Public/WebForms/Browse.aspx>). The application is available to all Internet users.

Until recently, mass mailings of Bulletins, Informational Guideline Releases and similar materials were simply addressed to position titles by means of mailing labels, and applied one by one to envelopes or publications. Addressing by name or by e-mail was not practical because of the constant turnover in city and town halls and frequent e-mail address changes.

To make continuous maintenance of names and addresses realistic, DLS gave key local officials access to a central Department of Revenue (DOR) address database. Access meant providing secure passwords to specific individuals. DOR simply does not have the resources to administer hundreds of password accounts for constantly changing local officials. The solution was to delegate account administration responsibility to one local official who will grant and update additional accounts within that municipality. Designing and adopting a workable authentication model was a critical ingredient toward this shared state-local resource.

Many different entities maintain directories of local officials, whether simple mailing lists or more elaborate contact

directories. All confront the same maintenance problems. State agencies that have dealings with municipalities, local official professional associations, private businesses and others, continuously devote time and effort to updating contact lists, with very mixed results. Because the Division's core business is communicating, quickly and reliably, with local officials, it had to solve this maintenance problem. Because digital communications are far cheaper and more efficient than manually producing and mailing hard copy publications, accurate e-mail addresses are essential to DLS' ongoing business. In short, DLS had good reasons to devote resources to creating a long-range solution.

To win acceptance by city and town clerks and other users, the system had to be easy to use. Any system that was not immediately intuitive to average users, and that required a training program or regular telephone support, would not work. Of course, making things easy is one of the most challenging assignments in software design. A year ago, programmers completed the first version of the Local Officials Directory, which was not released. It failed the ease of use test. The second version was previewed at meetings of town clerks and then released. On the day it was released, city and town clerks logged in and began making additions and corrections to about 3,000 officials already entered. No one asked for training and no one called for help in navigating screens or entering information. Very quietly, but convincingly, the system declared itself user-friendly.

The application starts with the information that DLS needs — the key executive and financial officials' telephone and fax numbers, as well as their mail and e-mail addresses. Some officials (e.g., city council members, those serving on finance or computer committees or small town part-time officials) use their home address or telephone number for public business. The application allows city and town clerks to disclose private contact information for specific individuals when appropriate. DLS is steadily adding other officials to the database while city and town clerks do the same.

Internet users can search for:

- A particular person by name;
- All officials in a particular community, regional school district, utility district, or charter school;

[continued on page six](#)

Inside This Issue

From the Deputy Commissioner	2
Legal	
Driveway Dispute Divides Neighbors	2
Focus	
Stabilizing Property Taxes in Volatile Real Estate Markets	3
Its Work Done, Nashoba Finance Board Dissolves	6
DLS Update	
Perry Welcomes New Staff	7
Reed Completes 100th FTS	7
2005 Municipal Law Seminars	8
Fall Course 101	8
FY06 Cherry Sheets	8
Bulletin No. 35 Available	8
DLS Profile	9



From the Deputy Commissioner

In April 2005, the State Ethics Commission fined a former municipal assessor \$10,215 for violating the conflict of interest law.

According to the Commission, this former assessor directed the assessor-appraiser, an employee of the town, to reduce his property value assessments. He also participated in granting himself an abatement and a statutory exemption.

The conflict of interest law prohibits a public employee from using his or her position to secure an unwarranted privilege of substantial value. It also prohibits municipal employees from officially participating in matters in which they have an interest or financial stake.

Most assessors perform their duties in a professional and trustworthy manner, and the actions of this former assessor are not typical. However, as Peter Sturges, Ethics Commission Executive Director, commented, "An assessor is entrusted with fiduciary responsibility that affects the personal finances of almost everyone in town. An assessor who uses his position to reduce his own property taxes breaches that trust in the very area that he is expected to act objectively."

Assessors should consult their town counsel or city solicitor for advice on avoiding possible conflicts. I also recommend reviewing the Ethics Commission's "Top Ten Rules Municipal Employees Need to Know About the Conflict of Interest Law," available online at www.mass.gov/ethics/toptenrules_municipal.html. This is a useful resource, especially for new officials.

Gerard D. Perry
Deputy Commissioner

Legal

in Our Opinion

Driveway Dispute Divides Neighbors

by James Crowley

The Appeals Court recently ruled on a dispute between two adjacent property owners on the North River in Marshfield. At issue was the existence of an easement over a neighbor's property to permit vehicular access to a dwelling. The case is *Zotos v. Armstrong*, 63 Mass. App. Ct. 654 (2005).

Plaintiffs, Thomas and Nancy Zotos, purchased their house on Little Lane in Marshfield from Aldro S. French in 1996. Pursuant to a 1995 approved plan, French had subdivided his land on Little Lane into Lots D-1 and D-2. French sold Lot D-1 to the Zotos. He retained ownership of Lot D-2, which was a vacant lot. According to the plan, access to both parcels from Little Lane was over an easement, described as "Easement D," that was adjacent to the southerly property lines of Lots D-1 and D-2. As was later ascertained at trial, French for 60 years had used an unpaved circular driveway to reach the house that was sold to Zotos. The approved plan depicted the driveway as being split by Lots D-1 and D-2 with access to each parcel by separate cutouts that never crossed the property lines. Furthermore, the May 1996 deed to the Zotos did not contain any language permitting them to proceed from their driveway to Little Lane by traversing Lot D-2.

Matters were complicated by the installation of a new septic system on the Zotos property. The purchase and sale agreement signed by French and Zotos required a new septic system and provided that \$20,000 would be escrowed at the time of closing pending completion of the project. Work commenced just prior to the May sale and was completed in early June 1996. The septic

system's leeching field could only be located on Zotos' portion of the circular driveway, and thereby deprived Zotos of direct access from Easement D to the house. The septic system plans did describe a proposed driveway, which would be west of the original driveway cutout for Lot D-1 as depicted on French's 1995 plan. Trouble would have been averted if the Zotoses had simply built a new driveway at the southern portion of their land where they had an easement. However, they refused to build the driveway. Instead, they drove over the portion of the circular driveway on neighboring Lot D-2. French, displeased by this intrusion, posted "no trespassing" signs and sought to block access to his land. Consequently, the Zotoses sued French in 1998 claiming they had the right to use Lot D-2 by virtue of an easement by necessity. Subsequently, French sold Lot D-2 in 1998 to David R. Armstrong who was then substituted as the defendant in this action.

The Land Court judge who heard the case ruled that the Zotoses held an easement by implication over their neighbor's land for vehicular access to their property. Armstrong who objected to vehicle traffic on his land immediately appealed to the Appeals Court. Citing prior decisions, the Appeals Court observed that implied easements have been recognized when (1) past common ownership of land has been proven, (2) a portion of the land has been used to benefit another part up until the time when the parcel was divided by sale, and (3) use of a portion of the land is reasonably ascertainable and reasonably necessary. The Appeals Court also noted that courts have been reluctant to find the parties intended to create implied easements where the parties explicitly reserved other easements in deeds.

continued on page nine

Focus

on Municipal Finance

Stabilizing Property Taxes in Volatile Real Estate Markets

Joan Youngman and Jane Malme

Property taxes based on market value have many features that recommend them as a source of local government revenue. They promote visibility and accountability in public spending by providing property owners with a means of evaluating the costs and benefits of local government services. They can provide stable, independent local revenue that is not at the mercy of state budget surpluses or deficits. They are now considered to be proportional or even mildly progressive, in contrast to earlier economic views that presumed the tax to be regressive.

Against these strengths, the greatest challenge to a value-based property tax is political: taxpayers' strong and completely understandable resistance to sharp increases in tax payments that reflect rising markets but not necessarily rising incomes with which to pay the tax increases. The best known and most dramatic response to this situation was rejection of the value-based tax system in California in 1978. When voters approved Proposition 13, they changed the tax base to the value of the property at the time of purchase or construction, with a maximum 2 percent annual inflation adjustment. For property held by the same owner since 1978, the inflation adjustment is applied to its value on the 1975–1976 tax roll.

This change has greatly altered California's fiscal landscape. It has restricted the role of local governments, centralized service provision and decision making, and redistributed the tax burden from long-time residents to new property owners. Local governments now have an incentive to seek sales

tax revenue by encouraging large retail establishments, such as auto malls, in what has been termed the "fiscalization of land use." Can the property tax achieve greater stability and predictability without such drastic social and governmental costs? *Table 1* illustrates the wide range of residential property tax levies in large metropolitan areas, a factor that presents additional challenges to formulating uniform policies or practical recommendations.

A Lincoln Institute seminar in April 2005 brought together public finance and assessment officials, policy analysts and scholars to consider alternate approaches to the recurrent problems that volatile real estate markets pose for value-based property taxes.

Problems Related to Market-Value Assessment

Discussion began with the incontrovertible observation, "Taxpayers do not like unpredictability." In theory, reductions in tax rates could balance increases in property prices to maintain stability in actual tax payments under market-value assessments. This approach faces two obstacles. The first and most straightforward is governmental reluctance to reduce tax rates and forego increased revenues when rising values provide a cover for greater tax collection. The second is nonuniform price appreciation in different locations and for different types of property. When one segment of the tax base experiences a disproportionate value change, a corresponding change in the tax rate applied to the entire property class will not maintain level tax collections. California faced both difficulties in the years preceding adoption of Proposition 13. There, rapid residential appreciation was not matched by the lagging commercial sector, and a \$7.1 billion state surplus fueled taxpayer cynicism as to the actual need for increased government revenues.

While rapid market shifts are the most challenging source of unpredictable tax changes, taxpayer "shocks" can also be caused simply by long delays in reassessment. Maintaining outdated values on the tax rolls achieves short-term predictability in tax bills, but at the expense of uniformity, accuracy and even legality. Long-postponed reassessments have been followed by tax revolts in many jurisdictions, both in this country and overseas.

Options for Addressing Value Shifts

Seminar participants reviewed the benefits and drawbacks of various measures to address these problems.

Circuit breakers, as their name implies, attempt to reduce a property tax "overload" by providing a refund or credit for taxes that exceed a set percentage of the property owner's income. When funded by the state and administered as part of the state tax system, they have the dual benefit of protecting local revenue and targeting aid to the most needy taxpayers. At the same time, they require state funding and administration, and taxpayers must file tax returns in order to obtain these benefits. Like all programs that require income information, they sometimes encounter taxpayer resistance and consequent underutilization.

Homestead exemptions, available in most states, reduce assessments on the taxpayer's primary residence. These exemptions are often granted without regard to taxpayer income, and so are not targeted to the most needy. In predominantly residential communities, this results in a significant loss of municipal revenues unless the tax rate is increased or the tax burden is shifted to other taxpayers. Like all preferential programs for homeowners, these exemptions fail to benefit renters, who bear a

[continued on page four](#)

Stabilizing Property Taxes

portion of the property tax burden and generally are less affluent than homeowners.

Tax deferral measures, often available to low-income elderly homeowners, permit unpaid taxes to accumulate as a lien against the property, to be paid after the residence changes hands. However, the desire to retain property clear of encumbrances has traditionally led homeowners to avoid making use of this option.

"Truth in taxation" legislation requires local governments to take various measures, such as publishing voter information and requesting ballot approval, to treat increases in tax collections in

the same manner whether they are the result of growth in the tax base or increases in the tax rate. These enactments seek to counter the temptation to allow rates to remain constant while market values rise, thus increasing taxes and spending without budgetary accountability.

Limitations on annual total property tax collection increases, such as Proposition 2½ in Massachusetts, restrict overall levy growth but do not address unpredictable tax bill changes for specific taxpayers. For example, after several decades of tax stability, Boston taxpayers are now facing assessment shifts that reflect a downturn in the commercial property market with simultane-

ous explosive growth in certain residential values.

Limitations on annual tax increases for individual properties have enormous political appeal, but face three hazards. First, there is often pressure to make the phase-in period as long as possible, or even longer than possible. Montana provided for an extended 50-year phase-in of new assessments. Second, initial success at limiting increases to a certain percentage may lead to efforts to reduce that limit again. Oklahoma instituted a 5 percent limit and now faces pressure to reduce it to 3 percent. Finally, the "catch-up" of tax assessments when values stabilize or even drop elicits opposition of its own as taxpayers face increasing assessments while property values are flat or falling.

Assessment "freezes" take limitations on increases to their ultimate conclusion, prohibiting any increases despite changes in market values. They often are restricted to specific groups of taxpayers, such as elderly homeowners. Proposition 13 is a type of assessment freeze for all property, with only a 2 percent annual inflation adjustment in the tax base. These measures are in many respects equivalent to the long delays in reassessments that lead to nonuniformity and resistance to new valuations. After values are frozen taxpayers may seek to transfer that value to other family members, as they do in California, or to new residences, as in Texas.

Possible New Approaches

Seminar participants discussed methods for utilizing these and other measures to address the problems of unpredictability while minimizing the problems of inequitable distribution of the tax burden and maintenance of collections. A major distinction was drawn between approaches that moderate tax bill shifts but maintain a market-value base and those that alter assessments themselves. Altering assessments by limiting increases in value can result in situations where owners of similar properties

continued from page three

Urban Homestead Property Taxes for a Median-Value Home, 2004

State/metropolitan area ^a	2004 2nd quarter median sales price ^b	Net tax	Tax rank
Top Ten Rankings			
New Jersey, Newark	\$370,600	\$8,637	1
Connecticut, Bridgeport ^c	234,238	6,393	2
Florida, Miami/Hialeah	271,900	6,096	3
Michigan, Detroit	172,298	5,516	4
Rhode Island, Providence	262,000	5,443	5
Maryland, Baltimore	241,600	5,399	6
California, Los Angeles	438,400	5,393	7
Illinois, Chicago ^d	263,300	5,082	8
Maine, Portland	231,200	4,971	9
Wisconsin, Milwaukee	197,300	4,912	10
Bottom Ten Rankings			
Arkansas, Little Rock	110,400	1,284	46
Kansas, Wichita	105,800	1,281	47
Georgia, Atlanta	156,800	1,236	48
Colorado, Denver	241,800	1,235	49
Kentucky, Lexington/Fayette	139,400	1,221	50
Oklahoma, Oklahoma City	107,000	1,196	51
Louisiana, New Orleans	137,500	1,126	52
Alabama, Birmingham	149,500	982	53
West Virginia, Charleston	115,100	943	54
Wyoming, Cheyenne ^c	111,208	740	55
Average of 55 MSAs	\$195,515	\$2,778	

Source: Adapted from Minnesota Taxpayers Association. 2004. 50-state property tax comparison study. St. Paul, MN. Table 19.

^a Metropolitan Statistical Area (MSA) with the largest city in 50 states plus five additional MSAs.

^b Before calculating the tax, the median value was adjusted for differences in assessment practices using the area's reported median sales ratio.

^c Estimated using the approximate two-year percentage increase in regional median prices of existing homes: Northeast, 29.7%; Midwest, 6.4%; South, 12.4%; West, 22.4%.

^d The Chicago MSA includes DuPage County/Naperville.

Table 1

continued on page five

Stabilizing Property Taxes

pay very different tax bills. Furthermore, over time properties with average or lesser value appreciation can experience an increasingly greater share of taxes compared with properties that have had larger market increases. As a result wealthier taxpayers are more likely than those of moderate or low incomes to benefit from assessment limits.

To maintain a market-value tax base, with its benefits of uniformity, understandability and administrative efficiency, participants offered suggestions to stabilize rapid increases in tax payments due to significant shifts in the assessment base.

- Eliminating stringent income limitations on eligibility for senior citizen deferral programs, expanding eligibility for circuit breakers and tax deferral, and including such measures in state rather than local tax relief programs would allow more taxpayers to participate. A state could establish a property tax deferral fund to reimburse local jurisdictions for delayed collections.

- Classification and taxation of property according to use is a common means of taxing commercial and industrial properties at a higher rate than residential properties. Changing the class rates to accommodate a shift in the value base can be an appropriate short-term remedy, but may have harmful economic consequences in the long term. In Massachusetts the permitted shift of the share of the total tax levy from residential to commercial property in a municipality is subject to statutory limits. The recent combined acceleration of residential values and downturn of commercial values would have resulted in a substantial shift of taxes to homeowners in the City of Boston and a few other urban centers. Thus the legislature permitted a temporary increase of the share to be borne by the commercial class, at local option, but required a return to an even more limited class share difference within a five-year period.

- Alternative methods of tax collection, such as credit card, direct debit or more frequent payment schedules, may offer greater financial convenience than the more common annual and semi-annual billings.

- Shorter periods between revaluations avoid the "sticker shock" that accompanies dramatic shifts and increases in value when reassessment occurs infrequently. Annual reassessments using computer-assisted mass appraisals offer greater stability and uniformity. Tax bills that reflect current values, rather than fractional assessments or outdated figures, are easier for taxpayers to understand.

Even significant increases in assessed value, if relatively uniform across the jurisdiction, do not result in increased taxes for most property owners if the municipal budget requires no additional property tax revenues and the tax rate is reduced proportionately. Better information about the relationship between assessed value and the tax rate will make it less likely that taxpayers will place the blame for their higher taxes on the assessors and their assessments. They may consider instead the adequacy of funding sources available to local governments, the effect of exemptions that reduce the property tax base, and unfunded mandates that require additional local expenditures.

The property tax, as the most important source of autonomous local revenue, often bears the brunt of criticism for the social, economic and fiscal pressures on local communities. Among these pressures are increased costs of new educational, environmental and security requirements, reductions in state and federal assistance, changing demographics and economic conditions, and increasing numbers of exemptions. Attention to these issues can clarify the debate over the role and burden of property taxes and the effectiveness of various tax relief measures.

continued from page four

Improving Educational Resources

There is an urgent need to provide government officials, lawmakers and the public with better information on property tax policy choices. Tax revolts and anti-tax initiatives make compelling news stories, but they should be balanced by concise and accessible information that sheds light on the problem and its solution. There is also a need for periodic research on such topics as:

- The effects over time of assessment and tax limits on the distribution of the property tax burden and on revenue growth, and the full costs to residents of additional fees and charges imposed to offset decreases in local property tax revenues.

- The effectiveness of property tax relief measures, and the distribution of their benefits across taxpayer classes.

- "Tax expenditure" studies to quantify the cost of exemptions, and exploration of the use of payments in lieu of taxes (PILOTS) for tax-exempt nonprofit property owners to pay for municipal services received.

- Assessment quality studies to evaluate both individual assessment equity and the distribution of the tax burden.

The Institute will continue these discussions and will undertake further research on these property tax issues in the coming year. ■

Joan Youngman is senior fellow at the Lincoln Institute of Land Policy. She has written extensively on matters relating to property tax policy.

Jane Malme, fellow of the Lincoln Institute of Land Policy, is an attorney, author and a consultant on property tax policy. She directed the Bureau of Local Assessment from 1978 to 1990.

This article was reprinted with the permission of the Lincoln Institute of Land Policy. It appeared on page 5 in the July 2005 issue of Land Lines, the newsletter of the Lincoln Institute of Land Policy.

Its Work Done, Nashoba Finance Board Dissolves

by Tim Connolly

The state-dominated Finance Advisory Board, created nearly three years ago to deal with the Nashoba Regional School District's \$3.6 million budget deficit, voted to dissolve on June 23, 2005. The board's vote is a clear indication that the district has successfully overcome its fiscal problems and established sound financial controls for the future.

"Although the Nashoba Regional School District's academic performance remained among the state's best during the fiscal crisis, its financial management is now of comparable quality," said David Driscoll, Commissioner of Education.

The board was established through special legislation in the fall of 2002 after the district's financial problems reached near crisis proportions. The legislation authorized deficit borrowing for the district and created a strong financial oversight role for the Finance Advisory Board. When the five-member board, comprised of designees of the Secretary of Administration and Finance, the Commissioner of Revenue,

the Commissioner of Education, the Deputy Commissioner of the Division of Local Services and the Chair of the Nashoba School Committee, first convened in the fall of 2002, the depth of the district's problems were in doubt.

"I'm pleased that this situation was resolved so expeditiously and that, going forward, the district has the capacity to professionally manage its financial situation," said Revenue Commissioner Alan LeBovidge.

Along with the necessary budget cuts for FY03, the School Committee moved quickly to hire a new administrative team for the district. John J. Antonucci was hired as the Assistant Superintendent for Business and Finance. Several months later, the School Committee hired a new Superintendent of Schools, Michael L. Wood. Mr. Wood had prior experience as a regional superintendent in a school district in Maine and understood the often complex dynamics involved in a regional district.

"These state oversight boards work best when local leaders work cooperatively with state officials to address the problems, said Finance Advisory Board Chairman, Frederick Kingsley of the Division of Local Services. "In this case, the School Committee deserves credit for hiring two skilled administrators. Two former School Committee chairs,

Carlos Llanos and Nancy Fleming, deserve credit for their leadership and perseverance."

Among the highlights of the Nashoba Regional School District fiscal recovery:

- The district is on target to have total fiscal year 2006 reserves of approximately \$1 million. The district should be in good position to receive a solid bond rating when it issues long-term debt for its high school project this fall.
- The district's budget fairly represents where district funds are actually needed and is based on conservative estimates of revenues and expenditures.
- Revenue estimates to support the budget, including all special revenue funds, are fully disclosed in the district budget presentation and are posted to the district website.
- The district received a clean FY04 audit and created an audit committee to ensure the independent selection of an audit firm.
- The district has developed a five-year capital plan for necessary capital purchases and infrastructure improvements. ■

Directory

- All persons in a specific municipal department among all 351 cities and towns, e.g., all city and town accountants;
- All persons with a specific position title, e.g., Finance Director or Director of Financial Services; or
- Combinations of the above selection criteria.

The program will search the database for the selected criteria and put the resulting officials into a screen in which each of the data elements — jurisdiction, department, position and name — is a link to a full screen of contact information. In addition, users can export

all the selected officials with all their public contact information to an Excel spreadsheet. These spreadsheets can be readily used for mail merge, database upload and other functions as varied as the potential users.

In FY06, DLS would like to work with city and town clerks, as well as other interested officials, to enhance this application further. Some ideas include:

- Allowing the selection of specific officials from multiple communities (instead of just one or all);
- Adding municipalities' counties to aid county professional associations;

• Adding certain fields relative to election dates and terms to allow city and town clerks to use this application to submit post-election filings with the Secretary of the Commonwealth (in electronic form, which would not have to be re-entered in the Secretary's office).

- Adding state agencies and legislators as searchable "jurisdictions."

Other ideas are welcome and can be directed to David L. Davies, DLS Information Technology Director, at daviesd@dor.state.ma.us. ■

continued from page one

DLS Update

Perry Welcomes New Staff

Deputy Commissioner Gerard D. Perry is pleased to announce that Donnette Benvenuto and Scott Dressel joined the Division of Local Services' (DLS) Municipal Data Bank and Technical Assistance Bureau (MDM/TAB) in April 2005.

Under the supervision of Data Bank Director Lisa Juskiewicz, Donette works in the Municipal Data Bank and Local Aid Section. Her duties include performing data analyses and processing the quarterly distribution of local aid. Before coming to DLS, Donnette worked in municipal finance offices as a revenue coordinator and as an assistant to the town accountant. She holds a bachelor's degree in management from the University of Massachusetts at Amherst.

Scott works in the Technical Assistance Bureau. He joins the staff supervised by Rick Kingsley, which provides comprehensive financial management and consulting services to cities and towns. He holds a bachelor's degree in economics from Tufts University and a master's degree in business administration from Boston University. Recently, while taking accounting courses at Suffolk University, Scott successfully completed the certified public account examination. Before coming to the Division, Scott worked in the finance section of the U.S. Coast Guard.

Perry said that "MDM/TAB provides vital assistance to cities and towns. Scott and Donnette certainly have the educational background and expertise to enhance the assistance MDM/TAB offers to its clientele."

Reed Completes 100th FTS

Kathy Reed, a field representative in the Division of Local Services' Bureau of Accounts, has completed her 100th Financial Team Seminar (FTS) in June 2005. Financial Team Seminars emphasize the team approach to financial management, and include information on various topics that relate to municipal finance such as the tax rate recapitulation sheet, the tax rate setting process, Proposition 2½, free cash and budgeting.

As a field representative, Kathy assists communities with filing the tax rate recapitulation sheet and the Schedule A, and with certifying free cash. In addition, she routinely visits her assigned communities to lend assistance. Although Kathy conducts most of the Financial Team Seminars in the communities she represents, she has participated in quite a few outside her assigned area. Currently, Kathy represents 31 communities from Bridgewater to Worcester and works in the Division's regional office in Worcester.

Kathy emphasized that the purpose of having a financial team in a community "is to improve the sharing of information and resources so that joint solutions can be successfully developed." If you would like more information on Financial Team Seminars, contact Thomas Guilfoyle, Regional Manager, at 617-626-2351. ■



Diane Dziura (left) of the Bureau of Accounts assists local government officials at the Division's New Officials Finance Forum held on June 3.

DLS Update

2005 Municipal Law Seminars

The Division of Local Services' (DLS) legal staff will offer the seminar "What's New in Municipal Law" Friday, September 23, 2005, at the Best Western Hotel in West Springfield, and Friday, September 30, 2005, at Lantana in Randolph. Presentations will include new legislation and recent court decisions pertaining to local government.

The general session in the morning will be conducted by attorneys Daniel J. Murphy, Chief of the Property Tax Bureau, Gary Blau, Kathleen Colleary, James Crowley, Christopher Hinchey, and Mary Mitchell.

The afternoon session will consist of three simultaneous workshops. Workshop A will examine the current assortment of new and traditional collection remedies for tax delinquent properties, including an examination of the use of tax agreements, sales or assignment of receivables, deeds in lieu of foreclosure, or in special circumstances, limited abatements. Workshop B will review and discuss many of the common issues and everyday questions that assessing personnel must address on a myriad of topics, including real and personal property taxes, personal exemptions, senior hardship deferrals, chapterlands and excises. Workshop C will focus on a variety of current topics and frequently asked questions about municipal accounting, revolving funds, school and other special accounts, and important finance issues.

In each of the afternoon workshops, pertinent and practical information relating to recent statutory amendments, new laws and case decisions will be incorporated into the program and attendant materials.

A registration bulletin for this seminar is available on the DLS website at www.mass.gov/dls/publ/bull/2005/2005_10b.pdf.

Fall Course 101

The Department of Revenue's basic course for assessors, Course 101, Assessment Administration: Law, Procedures, Valuation, will be offered in the evening in October and November 2005 at Holyoke Community College (Frost 343, Main Administration Building), 303 Homestead Avenue, Holyoke, MA. This program will be conducted from 6:00 p.m. to 9:00 p.m. on October 5, 12, 19, 26 and November 2 and 9, 2005.

Attendance at Course 101 and successful completion of the examination satisfies the minimum qualification requirements for assessors that were established by 830 Code of Massachusetts Regulation (CMR) 58.3.1. Assessors, and assistant assessors with valuation responsibilities, must fulfill minimum qualifications within two years of the date of their original election or appointment. All participants who successfully complete this course will receive a certificate.

For more information, link to a registration bulletin online at www.mass.gov/dls/publ/bull/2005/2005_09b.pdf.

FY06 Cherry Sheets

On June 30, 2005, the Division of Local Services published final FY06 Cherry Sheets at www.mass.gov/dls/CHERRY/index.htm based on the state budget approved by the governor earlier that day.

FY06 cherry sheets reflect an increase of \$105.6 million in Chapter 70 aid, \$100 million in Lottery aid, \$7 million in Regional School Transportation and \$2 million in increased funding for the METCO program over the FY05 amounts. These

cherry sheet estimates also reflect the removal of \$396 million in Ongoing School Building Assistance Grants, which are now being funded through the new Massachusetts School Building Authority. Estimates for this program may be found at the authority's website at www.mass.gov/msba. After adjusting for the removal of School Construction, the net increase in cherry sheet aid from FY05 is \$253.4 million or 5.6 percent.

In addition to posting local aid estimates throughout the state budget cycle, the Division has added links to each program name allowing the user to click on the link to find detailed information about the program.

Bulletin No. 35 Available

The Division of Local Services has recently published Municipal Bulletin No. 35, "Laws Relating to Municipal Finance and Taxation." This publication supercedes Bulletin No. 34, issued in May 2003.

This edition includes new provisions of law such as Chapter 40Q, District Improvement Financing, and Chapter 40R, Smart Growth Zoning and Housing Production. It rearranges the General Law provisions into a single section (Part II) in numerical order, rather than splitting them into two parts, as in previous editions. It also includes numerous updates to the general laws since the publication of Bulletin 34. The changes increase the size of the book by about 50 pages from the 2003 version.

The Division has provided copies to municipal officials in all 351 cities and towns. Other copies may be purchased at the State House Bookstore, located in Room 116 of the State House, at \$15 per copy, plus shipping. The telephone number for the Bookstore is 617-727-2834. ■

DLS Profile: A&F General Counsel

In the early 1980s, two events occurred that significantly changed local government finance. The first was the implementation of Chapter 797 of the Acts of 1979 that gave DOR extensive supervisory powers and the administrative tools needed to enforce the full and fair cash valuation assessment standard statewide; the second was the passage of Proposition 2½. **Harry Grossman**, who was the Division of Local Services' (DLS) Counsel and Property Tax Bureau Chief at that time, played an important role in writing many of the initial guidelines DLS issued pursuant to these laws.

Currently, Harry is the General Counsel to the Executive Office for Administration and Finance. He began his career in state government in 1980 when he was hired by former Deputy Commissioner Ed Collins to work as the Division's General Counsel. Within a few years, Harry became the chief of the Property Tax Bureau as well, and in this capacity, managed the Division's legal office, which included six staff attorneys, most of whom are still with the Division. During his tenure Harry established an ongoing series of legal seminars for local government officials and municipal attorneys. Today, these legal seminars have become one of the Division's most popular training programs.

In 1997, Harry became the Department of Revenue's First Deputy Commissioner. In addition to providing legal and policy advice to the Commissioner of Revenue, Harry established and managed DOR's Office of Dispute Resolution (now known as the Office of Appeals). He also chaired the Underground Storage Tank Cleanup Fund Review Board.

Since 2000, Harry has served as General Counsel for the Executive Office for Administration and Finance (A&F). In this capacity, he provides legal advice to the Secretary of A&F on a broad range of issues including capital expenditures and borrowing, legislation, state, municipal and county finance, and personnel matters. He also advises A&F agencies that include the Department of Revenue, Division of Administrative Law Appeals, Commission Against Discrimination, and numerous others. While Harry performs many other important duties at A&F, he manages to find time to hold the position of Adjunct Professor of Business Law at Suffolk University.

Current Property Tax Bureau Chief Daniel J. Murphy, who also began working for the Division in the early 1980s, said, "In the many years that the attorneys of the Property Tax Bureau worked with Harry on challenging and important municipal issues, he was always regarded as an exceptional friend, colleague and mentor." Dan believes he speaks for all when he says, "Our careers have been enriched by our close association with a person of such ability and dedication."

Harry is no stranger to serving as a municipal official, having been a member of the Marblehead Zoning Board of Appeals from 1988 to 2000. He holds a Bachelor's degree from Tufts University, a Juris Doctor from Suffolk University Law School, and a Master of Laws in Taxation from Boston University Law School.

Deputy Commissioner Gerard D. Perry noted that, "Harry established the foundation for many of the DLS programs which are highly regarded by local officials today. It is important that we recognize outstanding individuals who have made lasting contributions to this agency." ■



Harry Grossman

Driveway Dispute

continued from page two

In the case at hand, French granted an express easement over Easement D to the Zotoses to allow them access to their parcel. Significant to the Appeals Court was the deed's silence regarding an easement over the adjacent parcel retained by French. From French's long association with this property, the Appeals Court found it reasonable to conclude that French was aware that the installation of the septic system would block the driveway and deny access to the parcel. Also, any proposed driveway, as described on the septic system plan, would be difficult to build given the steep grade of the land. Most importantly to the Court, if French had intended to provide access over Lot D-2, the septic system plan would not have included a new driveway.

Under the facts presented, the Appeals Court reversed the Land Court decision and held that the Zotoses did not have an easement by implication over the driveway located on Lot D-2. ■

City & Town

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Joan E. Gourke, Editor

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